

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

David Anthony Babb,)	
)	
Plaintiff,)	C.A. No. 6:97-1553-HMH
)	
vs.)	
)	OPINION & ORDER
Drug Enforcement Administration and)	
William Lunsford, Seizing DEA Agent,)	
)	
Defendants.)	

This matter is before the court on remand from the United States Court of Appeals for the Fourth Circuit. On August 26, 2005, the Fourth Circuit found that “the district court prematurely ordered that [currency seized by the Government] be returned to [David Anthony] Babb without determining whether he was lawfully entitled to it.” Babb v. United States Drug Enforcement Admin., Nos. 04-1528, 04-1902, 2005 WL 2053349, at *8 (4th Cir. Aug. 26, 2005) (unpublished). Accordingly, the Fourth Circuit vacated the district court’s entry of judgment in favor of awarding David Anthony Babb (“Babb”) the \$57,960.00 which had been previously seized, and remanded the case for further proceedings.

On November 4, 2005, this court entered an order giving Babb fifteen days to initiate “a civil equitable motion . . . alleg[ing] a lawful right to possession” of the seized money. Id. at *3 (internal quotation marks omitted). The clerk of court mailed the order to Babb at his address on file. However, the order was returned undelivered.

On May 5, 1997, Magistrate Judge William M. Catoe, Jr. ordered Babb to notify the clerk’s office of any change to his address. Babb has not notified the clerk’s office of an

address change. However, some of Babb's pleadings bear an alternate address from the address on file. Out of an abundance of caution, Babb is given fifteen (15) days from the date of this order to initiate an equitable motion as noted above. Failure of Babb to file such a motion within the allotted time will act as a waiver of any right that Babb may have to seek repossession of the seized money. The court's previous order filed November 4, 2005, is vacated.

IT IS SO ORDERED.

s/ Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
November 21, 2005